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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/595,672 06/19/00 WANG

J 11302-0601

023594
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IM22/1003

EXAMINER

REDDICK, M

ART UNIT

PAPER NUMBER

1713

DATE MAILED:

10/03/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Applicant(s) N .

09/595,672

Applicant(s)

WANG ET AL.

Examiner

Judy M. Reddick

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1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/13/00;03/16/01.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. ***This application contains claims directed to the following patentably distinct species of the claimed invention: the instant poly(ethylene oxide) component of the melt blend which includes homopolymers of poly(ethylene oxide) and graft copolymers of poly(ethylene oxide) .***

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-14 are generic. Applicant is required to elect an ultimate species of poly(ethylene oxide) for further prosecution on the merits.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be but as variants or clearly admit in the record that this is the case. In either instance, if the examiner finds one of

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the invention is unpatentable over the prior art, the evidence is admissible and may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Information Disclosure Statement

2. The information disclosure statement filed on 03/16/01 has been considered and placed in the application file.

Drawings

3. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. **Claims 1-14 are rejected under 35 U.S.C. 102(b) as anticipated by r, in the alternative, under 35 U.S.C. 103(a) as obvious over Wysong(U.S. 4,206,101), Wysong(U.S. 4,215,169), Welygan et al(U.S. 4,631,215) or Larson et al(U.S. 5,641,562).**

Wysong teaches and exemplifies films derived from a melt blend of a) 5 to 20 pbw of a polyethylene glycol, 100 pbw of a polyvinyl alcohol and less than or equal to 2 pbw, based on 100 pbw of polyvinyl alcohol, of a polyethylene oxide governed by a molecular weight of between about 500,000 and 1,000,000. See, e.g., the Abstract, the paragraph bridging cols. 2-3, cols. 3-5, the Runs and the claims of Wysong'101 and Wysong'169.

Welygan et al exemplify an extruded article derived from a melt blend of aluminum oxide, polyethylene oxide, polyvinyl alcohol and water. See Run 14 of column 15.

Larson et al teach film derived from a melt blend of an elastomeric polymer and between 0 and 100 wt.% of a water-dispersible polymer which includes polyethylene oxide, polyvinyl alcohol and mixtures thereof. See, e.g., the Abstract, cols. 2-5, 7, the Runs and claims of Larson et al.

Each of Wysong'101, Wysong'169, Welygan et al and Larson et al therefore anticipate the instantly claimed invention.

The polyethylene oxide component of each of patentees is generic and necessarily implies that any polyethylene oxide component, including the claimed grafted polyethylene oxide, would have been obvious within the

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scope of patentees invention and with a reasonable expectation of success.

Conclusion

7. *Note the attached FORM PTOL 892 for additional prior art cited as of interest, viz., U.S. 6,258,427 to Kerins et al, in teaching films of polyvinyl alcohol or polyethylene oxide and considered merely cumulative to the prior art supra.*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Judy M. Reddick whose telephone number is (703)308-4346. The examiner can normally be reached on Monday-Friday, 6:30 a.m.-3:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (703)308-2450. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9310 for regular communications and (703)892-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-8183.

J. M. Reddick
Judy M. Reddick
Primary Examiner
Art Unit 1713

JMR *JMR*
October 1, 2001